

REMARKS

This is in response to the Office Action mailed on August 3, 2004.

Claims 45-47 and 56 are amended, no claims are canceled, and no claims are added; as a result, claims 38-57 are now pending in this application. The amendments to the claims are fully supported by the specification as originally filed. No new matter is introduced. The amendments are made to clarify the claims. Applicant respectfully requests reconsideration of the above-identified application in view of the amendments above and the remarks that follow.

Claims 45 and 46 are amended to provide a missing introductory word to correct a typographical error.

Claims 47 and 56 are amended for clarity and ease of reading.

§103 Rejection of the Claims

Claims 38-57 were rejected under 35 USC § 103(a) as being unpatentable over Shennib (U.S. Patent No. 5,197,332) in view of Lichter et al. (U.S. Patent No. 5,827,179). Applicant traverses these grounds of rejection of these claims.

Applicant cannot find in the combination of Shennib and Lichter et al. (hereafter Lichter) a teaching or suggestion of a method including communicating with a hearing aid using a first card in a portable host, where the first card has a first microprocessor to control the communication with the hearing aid, and evaluating a hearing response using a second card in the portable host, where the second card has a second microprocessor to manage the generation of test signals, as recited in claim 38. The Office Action notes that Shennib has a memory card compatible with JEIDA standards. However, having a memory card compatible with JEIDA standards does not teach or suggest communicating using a first card having a microprocessor and evaluating using a second card having a microprocessor.

The Office Action states “**Lichter et al.** disclose a personal computer card for collection for real-time biological data.” However, Applicant cannot find in Lichter a teaching or suggestion of a card having a microprocessor to manage the generation of test signals. A quote from Lichter in the Office Action recites: “various interchangeable real-time biological data processing PC cards can configure the host personal computer 27 into various collecting, processing, and monitoring modes,” which indicates that the PC cards of Lichter may have

sensors and can process signals from the sensors. However, processing signals from sensors using a PC card does not teach or suggest evaluating using a card having a microprocessor to manage the generation of test signals. Further, Lichter recites at column 8, line 26-33: "Since the real-time biological data processing PC card 10 uses the keyboard 67, display 65, storage 63, microprocessor 61, power supply (not shown), and data transmission and printing capabilities (not shown) of the host computer system 27, the real-time biological data processing PC card 10 itself is very inexpensive and rudimentary in design." (*underlining added*) Applicant submits that Lichter teaches away from claim 38, and that the combination of Shennib and Lichter does not teach or suggest all the elements of claim 38. Thus, Applicant submits that claim 38 is patentable over Shennib in view of Lichter for at least the reasons stated above.

Applicant cannot find in the combination of Shennib and Lichter a teaching or suggestion of a portable host having a first card to program a hearing aid, where the first card has a first microprocessor to control communication with the hearing aid, and a second card in the portable host to provide test signals to evaluate a hearing response, where the second card has a second microprocessor to manage the generation of test signals as recited in claim 48. Shennib deals with a microcontroller having a memory module, *See, Shennib Summary*, and Lichter deals with biological processing PC cards that use a microprocessor of a computer. *See Lichter, column 8, line 26-33*. As noted above, Lichter teaches away from claim 48. Applicant submits that Shennib in view of Lichter does not teach or suggest all the elements of claim 48, and that claim 48 is patentable over Shennib in view of Lichter for at least the reasons stated herein.

Applicant cannot find in the combination of Shennib and Lichter a teaching or suggestion of a portable host having a first card to program a hearing aid, where the first card has a first microprocessor to control communication with the hearing aid, and a second card in the portable host to provide test signals to evaluate a hearing response, where the second card is configured as a real-ear analyzer having a second microprocessor to manage the generation of test signals, as recited in claim 55. Applicant submits that Shennib in view of Lichter does not teach or suggest all the elements of claim 55, and that claim 55 is patentable over Shennib in view of Lichter for at least the reasons stated herein.

Claims 39-47, claims 49-54, and claims 56 and 57 depend on claims 38, 48, and 55, respectively, and are patentable over Shennib in view of Lichter for at least the reasons stated

above. Applicant respectfully requests withdrawal of these rejections of claims 38-57, and reconsideration and allowance of these claims.

Assertion of Pertinence

Applicant has not responded to the assertion of pertinence stated for the patents cited, but not relied upon, by the Office Action since these patents are not relied upon as part of the rejections in this Office Action. Applicant is expressly not conceding they have any pertinence and reserves the right to respond more fully should any of them form a part of some future rejection.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 371-2157 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,


GORDON J. BYE ET AL.

By their Representatives,

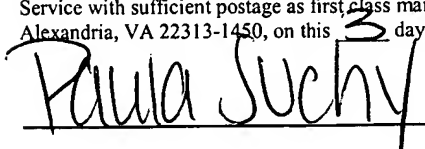
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 371-2157

Date 3 November 2004

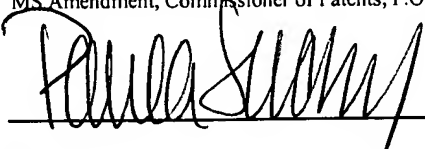
By


David R. Cochran
Reg. No. 46,632

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 3 day of November, 2004.



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